



Hingham Historical Commission

Town Hall, 210 Central Street, Hingham, MA 02043

To: Mark Grylls, Acting Building Commissioner

Robert and Cindy Stimson, Applicants

Re: Report on Application for Demolition Permit – 27 Hersey Street

Date: November 16, 2009

Background:

On August 24, 2009, the Stimson's filed an application to demolish the premises at 27 Hersey Street, styled the "Henry Osborn House" (c. 1847), a contributing property in the Hersey-Elm-Central Streets National Register Eligible Historic District and thus included in Hingham's Inventory of Historic Assets.

<http://www.hingham-ma.gov/historical/inventory.html> .



27 Hersey Street (c. 1847) – front



27 Hersey Street (c. 1847) – south side

Pursuant to the provision of the General Bylaws of the Town regulating the Demolition of Historically Significant Buildings or Structures, the matter was referred to the Historical Commission.

This Bylaw was adopted for the purpose of “protecting the historic and aesthetic qualities of the Town by preserving, rehabilitating and restoring, wherever possible, buildings or structures which constitute or reflect distinctive features of the architectural or historic resources of the Town, thereby promoting the public welfare and preserving the cultural heritage of the Town.”

An “historically significant building or structure” is defined in the Bylaw as one “which is (1) importantly associated with one or more historic persons or events, or with the architectural, cultural, political, economic or social history of the Town, the Commonwealth or the United States of America; or (2) is historically or architecturally important by reason of period, style, method of building construction or association with a particular architect or builder, either by itself or in the context of a group of buildings or structures.”

On September 22, 2009, following a site visit, a review of historic records, and consideration of certain materiel submitted on behalf of the applicants, the Commission found that the premises are “historically/architecturally significant, and contribute to the streetscape characteristic of Hersey Street.”

Thereafter, on October 19, 2009, a public hearing was duly held, pursuant to the Bylaw, to determine whether the 1847 house should be “preferably preserved” on the ground that it is “an historically significant building or structure which, because of the important contribution made by such building or structure to the Town’s historical and/or architectural resources, it is in the public interest to preserve, rehabilitate or restore.”

At the October 19 hearing, the applicants and their agents stated that it was inconvenient and uneconomic to “preserve, protect or restore” the 1847 portion of the premises for incorporation into their plan for a substantially larger replacement home at this location. They therefore propose to demolish the historic structure, while pointing out that their plans call for including a partial replica thereof as a section of the proposed new dwelling.

The Commission was not preliminarily persuaded - based on the simple assertions of the applicants and their agents - that preservation, protection and restoration of the existing 1847 structure as part of the project would be so difficult and expensive as to render the entire project unfeasible. The Commission nevertheless voted to continue the matter for 14 days in order to permit the applicant to submit further information on this score, including, preferably, a report by a Registered Structural Engineer.

At the continued hearing on November 2, 2009, the applicants and their agents reiterated and expanded upon arguments made earlier, submitted certain photographs purporting to show elements of the framing and foundation that would be expensive to “bring up to code”, and also data with respect to the relative size of other dwellings in the area.(This latter data was intended to respond to the expressed view by members of the Commission that the proposed replacement structure was out-of-scale with other homes in this section of Hersey Street.)

In addition, the applicants suggested that their “incremental costs” for rehabilitating and restoring the 1847 structure, rather than demolishing and replacing it, would be approximately \$75,000 amortized over the life of a 30-year mortgage, based on cost estimates of “up to” \$103,000 submitted by their builder. (The applicants also argue that living costs incurred by them during a potential 6-month demolition delay constitute an additional expense should they go the rehabilitation/restoration route, but the Commission does not deem these expenses to be “incremental costs” in this context.) The builder noted that his “numbers were estimated until such time as structural engineering is available for review.” (There was no report by a Registered Structural Engineer submitted prior to, or at, the November 2, 2009 hearing. The applicants stated that they considered, but ultimately decided against, the retention of a structural engineer.)

One abutter, a resident of 38 Hersey Street, testified. He objected to the size of the proposed replacement structure, which he deemed out of scale with this section of Hersey Street.

A letter was received from John P. Richardson, historian, author, and former chair of the Historical Commission, who resides at 99 Fort Hill Street, providing in part as follows:

“Hardly a person is aware that Hersey Street is one of the earliest public ways in Hingham. It was opened over the grant given to Jonas Austin in 1636 ... Hersey Street wound up over and between ledges that can still be observed along its entire length ... There was no development on Hersey Street north of Elm Street until the mid-19th century... About 1846 a subdivision was planned and built off of Hersey Street accessed by a new way named Oregon Court. The Hingham Patriot for October 23, 1846 contains an ad for 24 house lots on “Oregon Place and Hersey Street”. Another ad on November 6, 1846 informs that 5 lots on Oregon Place and 2 lots on Hersey Street were to be sold at auction. All lots had 60’ frontage and beautiful views of Hingham Harbor and the surrounding Hingham village. (At the time there were few trees and that high, ledgy land at Hersey Street provided exceptional vistas.) This 1846 subdivision may have been Hingham’s first extensive subdivision... (This) development features a row of 1848-9 houses that were basically identical (and) remain intact as a part of Hersey Street’s unique streetscape. These homes represent a study relative to the architectural evolution of an identical row of two-story row houses that are typical of this architectural period. This architectural resource is a significant part of Hingham’s overall historic architectural resource and streetscapes, which, because of the high survival rate of contiguous architecture, represents a national resource relative to the growth and evolution of village architecture in New England from 1633 to about 1925. Each structure lost within the nationally significant village streetscape(s) diminishes the emerging national resource.”



This picture, provided by Mr. Richardson, was taken by William Hudson, c. 1861, from Mars Hill, North Street. Along the horizon are the houses on Hersey Street and Oregon Court built between 1847 and 1860.

Findings:

A. The historic significance of the structure proposed for demolition

The 1847 Henry Osborn House at 27 Hersey Street should preferably be preserved because it is historically significant by itself and in the context of the group of houses located in this northerly section of Hersey Street, particularly including a remarkably varied collection of contiguous Greek-revival gable-end houses. Among these houses are the following:



17 Hersey Street



19 Hersey Street



21 Hersey Street



25 Hersey Street



27 Hersey Street



1 Crowe's Lane



38 Hersey Street



41 Hersey Street



46 Hersey Street



48 Hersey Street



52 Hersey Street



58 Hersey Street



75 Hersey Street



73 Hersey Street



17 Crowes Lane



13 Oregon Court



17 Oregon Court



11 Oregon Court



71 Hersey Street



66 Hersey Street

Most of these homes are well-maintained, and many have been recently rehabilitated or restored. Furthermore, all have been modified, to a greater or lesser extent, in the last 150 years, while still preserving the core structure. In a living, breathing community such as Hingham, and in a long-established neighborhood such as the northern section of Hersey Street, the accepted principles of historic preservation do not require that structures be forever preserved “as is”, without sympathetic alteration in order to serve the needs of today’s residents.

That said, current “mansionization” trends constitute a new and very real threat to this area of historically significant but still relatively modest homes, which have survived fire, pestilence, storms and other natural threats for so many years. The demolition of smaller homes in order to erect much grander replacements, can quickly harm the historical and architectural context within which these homes exist.

Imperfect tools such as the demolition delay bylaws adopted by Hingham and more than 125 other communities in Massachusetts strive, with varying degrees of success, to protect this context - in part, by scrutinizing “the proposed reuse of the parcel on which the building or structure to be demolished is located.”¹ We note that according to the Massachusetts Historical Commission, many of the towns which have adopted demolition delay bylaws in recent years have done so because they are alarmed by the growing number of knockdowns of smaller, older homes in order to build super-size replacements.

In making this finding, we rely on the language of the Demolition Delay Bylaw, the Richardson letter cited supra, the history of the house as revealed in the Julian Loring records – available at the Commission offices, in the archives of the Hingham Historical Society and at the Hingham Public Library – and the joint findings of Fannin-Lehner, Preservation Consultants to the Town, the Massachusetts Historical Commission and relevant federal agencies that 27 Hersey Street is a contributing structure in a National Register Eligible Historic District and thus properly included in Hingham’s Inventory of Historic Assets.²

¹ We note that all the similar dwellings pictured above, within several hundred feet of 27 Hersey Street, have smaller footprints than that shown in plans for the applicants’ proposed replacement structure – with the majority less than half the size. As we calculate it, 27 Hersey Street currently has 1,412 sf of living space, while the replacement structure will have roughly 4,268 sf of living space, counting a “media center” on the second floor of the new garage. Comparable numbers for the other dwellings pictured: 17 Hersey Street, 2,289 sf; 19 Hersey Street, 1,425 sf; 21 Hersey Street, 1,540 sf; 25 Hersey Street, 2,332 sf; 38 Hersey Street, 2,042 sf; 41 Hersey Street, 2,020; 46 Hersey Street, 1,780 sf; 48 Hersey Street, 1,850 sf; 52 Hersey Street, 1,446 sf; 58 Hersey Street, 1,470 sf; 66 Hersey Street, 2,901 sf; 71 Hersey Street, 1,946 sf; 73 Hersey Street, 1,068 sf; 75 Hersey Street, 1,620 sf; 1 Crowes Lane, 2,462 sf; 17 Crowes Lane, 1,650 sf; 11 Oregon Court, 1,801 sf; 13 Oregon Court, 1,194 sf; 17 Crowes Lane, 1,650 sf.

² For a Superior Court ruling upholding the validity of Hingham’s Demolition Delay Bylaw see: *Roscommon Realty Corp. vs. Alexander Macmillan et als.* CA No. 94-1728-A, (Plymouth Super. Ct. April 28, 1995) (O’Brien, J), citing *City of Cambridge et al. v. Cellucci, Cambridge Building Commissioner*, CA No. 87-1552 (Middlesex Super. Ct. Mar. 21, 1988) (Izzo, J.). It was expressly held (by O’Brien, J.) that “... the provisions of the Hingham Bylaw conferring power on the Town of Hingham and the Commission to delay the demolition of the former gas station are within the authority conferred upon the Town and the Commission under G.L. c. 40, Section 8D.” At issue was the adverse impact a proposed replacement structure would have on surrounding neighborhood.

B. Economic justification for demolition:

The Bylaw requires, inter alia, that applicants submit to the Commission, prior to the hearing, “the reason for the proposed demolition and data supporting said reason, including, where applicable, data sufficient to establish any economic justification for demolition.” Although the Commission clearly felt that such data was lacking in the original submission, it nevertheless granted the applicants additional time to supplement that data.

Having reviewed the original submission and supplements received at the second hearing, the Commission finds no basis upon which to withdraw or amend our finding, in Paragraph A next above, that the 1847 structure at 27 Hersey Street is “preferably preserved.”

Clearly, since the Bylaw calls for the submission of the “economic justification for demolition” it must necessarily be assumed that a demolition permit may be granted under certain circumstances, even where the structure is “preferably preserved”, should the costs of preservation and restoration rise to extraordinary magnitudes or be deemed unreasonable or unfeasible. Likewise, the costs of compliance are taken into account under virtually every state and federal law requiring the protection, preservation and restoration of historic resources. Such laws, the rules and regulations promulgated by administrative agencies, and rulings by reviewing courts, always note, however, that it is not enough to simply demonstrate that such measures are more costly than an applicant’s preferred alternatives – including the demolition and replacement of an historic structure.

With an eye to such precedents as exist on this score, and based on the evidence in the record, we do not find that the incremental cost of preserving, rehabilitating or restoring the 1847 portion of the premises, rather than demolishing the same and replacing it with a replica, rise to an unreasonable level relative to the entire cost of acquiring the site, demolishing the premises, and erecting a larger structure to the applicants’ liking.

C. Feasibility of preserving, rehabilitating and restoring the 1847 portion of the premises:

At the November 2, 2009 continued hearing, the applicants and their agents argued vehemently, in the alternative, that the 1846 structure is simply beyond hope, given a range of structural deficiencies, water leaks, poorly-installed insulation, foundation inadequacies and the like, so that – to paraphrase – there would be nothing left of the historic structure, as a practical matter, after all such deficiencies are rectified.

Particularly in the absence of a report by a Registered Professional Engineer, we are not persuaded that the perceived deficiencies cannot be rectified. Indeed, the applicants’ builder has estimated the incremental costs of rehabilitating the existing structure and bringing it

“up to code”, and we do not find that such costs would constitute an excessive incremental increase in the entire project.³

Finally, the applicants and their agents offered an additional reason for preferring demolition to restoration: the first floor level of the existing structure is below the level contemplated for the larger replacement structure – which stretches substantially uphill to the rear of a lot. To avoid an internal step between levels, the foundation of the restored portion would have to be raised several inches. Once again, we do not perceive this problem to be insoluble, and indeed its resolution has been anticipated by the applicants’ builder, who has already included in his estimate of the incremental costs for “preserving the old frame” the need to “raise the existing building 6-10 inches above (the) existing foundation.”

Conclusion:

The Commission therefore DIRECTS, in accordance with Paragraph (d) (7) of the Bylaw, that the Acting Building Commissioner refrain from issuing a demolition permit for the premises at 27 Hersey Street for a period of 6 months from the date of the filing of the Commission’s report, unless the Commission informs him, prior to the expiration of such six (6) month period that it is satisfied that the applicant for the demolition permit has made a bona fide, reasonable and unsuccessful effort to locate a purchaser for the building or structure who is willing to preserve, rehabilitate or restore the building or structure, or has agreed to accept a demolition permit on specified conditions approved by the Commission.

A handwritten signature in black ink, reading "Alexander Macmillan". The signature is written in a cursive, flowing style.

Chairman, Hingham Historical Commission

³ We note that section (e) of the Bylaw allows for the emergency demolition of a structure, under certain circumstances, if its condition “poses a serious or eminent threat to public health or safety due to its deteriorated condition.” No request has been sought for the issuance of such an emergency demolition.